

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL EDWARD LOFTIS,

Defendant-Appellant

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UNPUBLISHED

April 11, 1997

No. 190164

Macomb Circuit Court

LC No. 94-002726-FH

Before: Markey, P.J., and Bandstra and Hoekstra, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of second-degree criminal sexual conduct, MCL 750.520c(1)(f); MSA 28.788(3)(1)(f). Defendant was sentenced to three years' probation, with the first twelve months to be served in jail.<sup>1</sup> Defendant appeals as of right. We affirm.

Defendant argues that the guilty verdict was against the great weight of the evidence, and therefore, the trial court abused its discretion in denying his motion for a new trial. We disagree.

We review a denial of a motion for a new trial based on a great weight of the evidence argument under an abuse of discretion standard. *People v DeLisle*, 202 Mich App 658, 661; 509 NW2d 885 (1993). The question is whether the verdict was manifestly against the clear weight of the evidence. *Id.* at 661. We give substantial deference to the court's finding that the verdict was not against the great weight of the evidence. *Severn v Sperry Corp*, 212 Mich App 406, 412; 538 NW2d 50 (1995).

Defendant contends that the evidence presented at trial was insufficient for the complainant to identify him as her attacker. The evidence indicated that the complainant was attacked in her car in the parking lot of a lounge she had just left. The complainant recognized her attacker as someone who had been in the lounge that evening. She described her attacker to lounge security personnel. Minutes after the attack, she identified defendant to both the security personnel and police as the person who assaulted her. Defendant was wearing clothes similar to those described by the complainant. Defendant admitted at trial that he left the lounge for five to seven minutes near the time of the attack. One of witnesses defendant called at trial also testified that defendant had left the lounge for about ten minutes near the time of the attack. We find that defendant's identity as the complainant's attacker was

clearly established. Therefore, defendant's guilty verdict was not against the great weight of the evidence. Accordingly, the trial court did not abuse its discretion in denying defendant's motion for a new trial. *DeLisle, supra* at 661-662.

Affirmed.

/s/ Jane E. Markey

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

<sup>1</sup> Defendant was sentenced on October 4, 1995, and has probably been released from jail.